

**TOWN OF SULLIVAN  
ZONING BOARD OF APPEALS  
JANUARY 12, 2023  
7:00 P.M.**

A regular meeting of the Zoning Board of Appeals of the Town of Sullivan was convened at the Town Office Building by Chairman Steve Durfee at 7:00 P.M.

Those in attendance for the meeting were: Chairman Steve Durfee, Members Terry Manning, Clifford Reals, Michael Keville, Luke Capria and Attorney for the Board John Langey

Also present: Larry Ball, Building/Codes Inspector

**PUBLIC HEARING**

**7:00 P.M. – TERRIE HUNTER: AREA VARIANCE (1276 TYLER RD., BRIDGEPORT, 9.26-1-20) BUILD FRONT PORCH BY ENCROACHING 8 FT. INTO THE 30 FT. REQUIRED FRONT YARD SETBACK.**

Terrie Hunter appeared before the Board seeking a variance for a few more feet to build a front porch. The new house is in compliance with the 30 ft. setback. She thought they owned to the road but her mistake after having the survey completed. The porch will be encroaching 8 ft. into the 30 ft. required front yard setback. Member Reals asked if the porch will be covered. Mrs. Hunter stated that the balcony will not be covered, the upper and lower deck will face the lake and then wrap around.

The Town of Sullivan Planning Board sees no adverse Town-wide impact in granting this variance.

The Madison County Planning Board returned the application for Local Determination.

No one spoke for or against the application. The public hearing was closed at 7:03PM.

**STEPHEN BREAN: DISCUSSION FOR INTERPRETATION ON ZONING CODES/TOWN LAWS (121 WATER ST., 10.58-1-8)**

Chairman Durfee stated this discussion was tabled from the November 10, 2022 meeting and understands that Mr. Brean is challenging interpretation of some of the codes. The purpose of tonight's meeting is to inform us and get us up to speed on his concerns. If Mr. Brean is challenging the codes he has to fill out an application and have a public hearing. Attorney Langey went over the applications on file that Mr. Brean stated he already gave to Mr. Ball.

Stephen Brean appeared before the Board, he feels everything can be resolved with one department. He informed the Board that he has done extensive research regarding filing a subdivision and level of improvement of lots with addition of sewer and water in 1978. He states he does not have to obtain approval from the Planning Board for subdivision as it is

beyond the jurisdiction of the Planning Board. He referenced that maps were filed for subdivision with the County Clerk's office in 1925 and 1932 which showed every lot on the maps. Mr. Brean stated he still needs building permits and zoning approvals to be compliant. Attorney Langey stated that it is Mr. Brean's opinion that he does not need to go through the Planning Board and he does not agree with all of Mr. Brean's conclusions. Mr. Brean stated the land is being subdivided as we speak after verifying with several attorneys and it is his right by law. He explained his personal research and opinions regarding State Town Law Chapter 62, Article 16. Mr. Brean discussed his opinions of the authorization that the Town Board can give to the Planning Board in reviewing subdivision plats.

Chairman Durfee asked Mr. Brean exactly what do you need/want from this Board. Mr. Brean states he needs to address the zoning issues as he needs to obtain building permits. The first is size of the front lot, the first area variance for Lot 1 was denied and the decision filed. He stated this topic was discussed at the Planning Board meeting of November 1, 2022 with Mr. Ball present and it was said that the "front lot" was buildable as is with no variances needed. Mr. Brean continued to discuss his interpretation by referencing the Zoning Map (per zoning schedule) the areas as zoned MR-12 and the Business district created in 1979 east of Lakeport. He stated that all of his land used to be MR-12 and is now Business (LR-40) that requires Special Use Permits in his opinion. Mr. Brean followed with discussion to State/Town Law's regarding lot size values, setbacks and perimeters. It is his position that Mr. Ball's only obligation is to determine if the application is complete for a Special Use Permit with the Planning Board and present to the Planning Board.

Mr. Brean is asking the Zoning Board to reaffirm Town Code Section 275-9 and determine that Section 275-9 is to be enforced. It is his opinion that the way it is written states that Mr. Ball is to review the SUP application for completeness and forward it to the Planning Board. Mr. Brean wants the Zoning Board to "order" Mr. Ball to forward the Special Use Permit to the Planning Board and to state that Mr. Ball has no authority to decide lot size since it is his opinion that this is up to the Planning Board. He would like the ZBA to order a refund of his permit fee that was cancelled because of "misinformation" regarding the zoning, Business District and SUP needed.

Mr. Brean then discussed his opinion of the required road frontage. He stated that road frontage is not on the zoning chart which has been modified seven times since 1971. Lot width is only in the definitions. The Code reads "shall" which means mandatory with attachment of portion shall be considered front yard. Mr. Brean believes that there are no road frontage requirements in researching the Code. Oneida Lake Overlay is Article VIII, with Code Section 275-37 noting minimum lot road frontage requirements but that "road frontage" is not in the zoning table. Lot width and road frontage are two different things for two different purposes. In his opinion lot width means sewer/water and road frontage is for safety reasons (ingress, egress and emergency vehicles).

Mr. Brean stated his opinion that at this time the Town has no road frontage requirements so the most restrictive code form of legislation has to be used. His position is that a 2014 survey was approved and filed. Mr. Brean stated that School St. was approved at 20 ft. road frontage into his land and Water St. has been improved to 37 ft. of road frontage.

Chairman Durfee asked if the application on file is complete or will he modify it for the public hearing to be scheduled. Mr. Brean said he will modify the application and resubmit if that is what the Board would like.

Mr. Brean referenced an email from Mr. Ball regarding driveways. Mr. Brean said he improved Water St. to School St. He asked that the Board find no road frontage variance is needed with 15 ft. minimum for his two lots on the lake. He then referenced Town Law 280-a and that the Town of Sullivan has no official Town Map. It is his belief that his lands are all “legal streets” to build on with filed mapped streets. In his mind he feels “does not need any variances”, he has enough road frontage for all lots on approved streets and they are approved enough for fire trucks and emergency vehicles.

Member Keville stated that the Zoning Board has the power to interpret code and approve variances but does not have authority to compel action. Chairman Durfee explained to Mr. Brean that the Board needs to be clear on what he wants this Board to decide in writing. Mr. Brean stated that he does not necessarily agree, and read Town Law Section 267-a & b which defines the Board of Appeals’ procedures and that they have the power to make orders to compel. Attorney Langey said he does not necessarily agree as there are certain powers that the Zoning Board of Appeals does not statutorily possess, nor does the Planning Board. There are a lot of moving parts here that will be discussed. Member Keville explained we can interpret the Law and agree or disagree with Mr. Ball on his interpretation so that is why the Board is asking for Mr. Brean to be specific with his application. Mr. Brean will bring in a new specific interpretation application and a public hearing will be set up for interpretation of the specific requirements on March 9, 2023 at 7:00 P.M.

## **NEW BUSINESS**

## **OLD BUSINESS**

### **TERRIE HUNTER: AREA VARIANCE (1276 TYLER RD., BRIDGEPORT, 9.26-1-20) BUILD FRONT PORCH BY ENCROACHING 8 FT. INTO THE 30 FT. REQUIRED FRONT YARD SETBACK.**

The Board jointly reviewed and considered the legal criteria and a proposed resolution for the granting of the requested area variance addressing each of the factors for approval or denial of the application. This would not produce undesirable change in the neighborhood or be a detriment to nearby properties as this is residential use and common with other homes, views are not blocked, low traffic street and home is at end of the street. There are no feasible alternatives to the variance. The requested variance is not substantial, 8 ft. on 30 ft., less than 30%. This would not have an adverse impact on the physical or environmental conditions in the neighborhood as no environmental conditions are identified associated with the project. The difficulty is self-created but not a determining factor.

This application was declared by the Board to be Unlisted Action with Negative Declaration for SEQR with the impact assessment completed and the action will not result in any significant adverse environmental impacts.

A motion was duly made by Member Capria, seconded by Member Manning and unanimously passed by the Board that the benefit to the applicant does outweigh any detriment to the neighborhood. The variance was approved granting 8 ft. of relief from 30 ft. required setback to construct wrap around front porch with balcony.

### **APPROVAL OF MINUTES**

A motion was duly made by Member Keville, seconded by Member Reals and unanimously passed by the Board approving the minutes of November 10, 2022.

A motion was duly made by Member Keville, seconded by Member Capria and unanimously passed to go into executive session at 8:10 P.M.

A motion was duly made by Chairman Durfee, seconded by Member Keville and unanimously passed to close the executive session at 8:50 P.M.

### **ADJOURNMENT**

A motion was duly made by Member Keville, seconded by Member Capria and unanimously passed to adjourn the meeting at 8:51 P.M.

**Respectfully Submitted**  
**Jeri Rowlingson, Secretary**